IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

APPEAL FROM ORDER NO.694 OF 2004

Shri Dinkar Mahadeo Taru ... Appellant

V/s.

Ramchandra Bhaskar Phadnis & Ors. ... Respondents

Mr.K.Y. Mandlik for Appellant
Mr.Padmakant M. Shah for Respondents

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **OCTOBER 12, 2004**

P.C.:

. The order challenged is dated 12.4.2004 rejecting the application made by the appellant for restoration of the appeal No.470 of 2003 which was decided ex-parte on 5.1.2004. According to the appellant, the case was pending on the file of 4th ad-hoc Additional District Judge and was transferred to the ad-hoc Additional District Judge, Pune and retransferred again to the 4th ad-hoc Additional District Judge without any notice to him. According to the appellant, the learned trial Court has found that the it was true that sufficient cause had been made out by the appellant of not having knowledge of the transfer of the proceedings, but this was not a justifiable ground for setting aside the ex-parte order.

2. The reasons given by the trial Court display non-application of mind. A litigant is expected to be informed when his matter is transfer from one Court to the other. Unless this is done, it will be difficult for the litigant to know as to which Court his matter is assigned. Assuming it was for the advocate of the litigant to inform him of the transfer, a default on the part of the advocate should not prejudice the interest of the client.

3. In the interest of justice, the impugned order is set aside. Appeal No.470 of 2003 is restored to file.

4. Appeal from Order stands disposed of.